IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 34849 of 2005(W)

PETITIONER:

SANKARANKUTTY NAIR, S/O.KALOOR
NANIKUTTY AMMA, PANANCHERY DESOM, PANACHERRY VILLAGE, THRISSUR TALUK.

BY ADV. SRI.JIJO PAUL

RESPONDENTS:

KURILAND (P) LTD. UNITYBUILDINGS,
MANNADIAR LANE, THRISSUR VILLAGE, THRISSUR TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.34849/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE EXECUTION PETITION DT. 31.1.05 IN EP. NO.58/05 IN OS. NO.177/03 BEFORE THE SUBORDINATE JUDGE, THRISSUR FILED BY THE RESPONDENT.

EXT.P2:- COPY OF THE OBJECTION FILED BY THE PETITIONER DT. 4.6.05 IN EXT.P1 PROCEEDINGS.

EXT.P3:- COPY OF THE ORDER OF THE SUBORDINATE JUDGE , THRISSUR DT. 9.11.05 IN EP. NO.58/05 IN OS. NO.177/03.

/TRUE COPY/

P.A. TO JUDGE

tss

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 34849 of 2005

Dated this the 8th day of August , 2007

JUDGMENT

This writ petition is remaining defective on the reason that the respondent has not been served with notice. But the respondent obviously is having notice regarding the pendency of this writ petition through the stay order which was communicated to the execution court. This court became inclined to stay the execution proceedings only subject to certain conditions. As modified by the order dated 18.1.2006, the conditions were that a sum of Rs.25,000/- shall be deposited by 31.1.2006 and a further sum of Rs.25,000/- shall be deposited within one month from 31.1.2006.

2. Sri. Jijo Paul the learned counsel for the petitioner is unable to inform me as to whether the petitioner has made the two deposits. I find that the ground which is prominently urged in the writ petition is that the market value of the property which is now proposed to be sold will be much more than the value shown in the proclamation schedule. Considering that ground, I am of the view that the writ petition can be disposed of issuing the following directions:

i). The Execution Court will verify whether the petitioner has paid or deposited a sum of Rs.25,000/- towards decree debt by 31.1.2006 and whether a further sum of Rs.25,000/- has been paid or deposited within one month from 31.1.2006. If, on such verification, it is seen that the two deposits have been made by the petitioner, the execution court will hold up further proceedings in execution for another four months from the date of verification.

ii). It is open to the petitioner to identify a purchaser for any portion of the property in question in the meanwhile. Once such a purchaser is identified, the petitioner will produce a copy of the agreement entered with that prospective purchaser and file an application before the court below for a private sale of the property. The court below will consider that application and pass appropriate orders so as to ensure that the entire balance decree debt is paid by the prospective purchaser directly to the decree holder or by the petitioner himself. At any rate, the order of stay will not continue beyond four months of the day the court below conducts verification regarding deposits already made by the petitioner.

Iii). It is made clear that the above directions will not stand in the way of the petitioner sorting out the issue with the respondent

decree holder in any other manner within the time frame set herein.

The writ petition is disposed of as above.

PIUS C. KURIAKOSE,
JUDGE.

dpk